

REMARKS

Applicant submits this paper in response to the Final Office Action dated March 9, 2009, and accompanying the presently filed Request for Continued Examination, with fee payment therefor.

By way of this paper, claims 1-15 are currently amended. Support for the amendments to independent claims 1-3, and 11 can be found in the present application at paragraphs [0005], [0007], [0008], [0010], and [0011]. The remaining amendments to the claims are merely formal in nature. Therefore, no new matter has been added.

In light of the forgoing amendments to the claims and the following remarks, Applicant believes that the present application is in condition for allowance in respectfully requests the Office to acknowledge the same.

REJECTIONS UNDER 35 USC § 102, § 102/103, AND § 103

Claims 1-3, 10, and 11 stand rejected under 35 USC § 102(b) as being assertedly anticipated by Eder (WO 03/024861, with US 2004/0099379 used as a translation). (It is to be noted that "Erich" is actually the inventor's first name, and thus, throughout the present Response the Applicant uses the name "Eder" to identify WO 03/024861 reference). Claims 1-3, 10 and 11 stand rejected under 35 USC § 102(b), as assertedly anticipated by, or in the alternative, under 35 USC § 103(a) as obvious over, Bright et al. (EP 1122173). Claims 1-3, 10 and 11 are rejected 35 USC § 103(a) as assertedly unpatentable or as assertedly obvious over Bright in view of Eder. Claims 1-15 are rejected under 35 USC § 103 as assertedly obvious over Bright (or Bright as modified by Eder) in view of Hashiguchi et al. (US Patent Application Publication 2002/0161467).

Independent claims 1, 2, 3, and 11, as amended, now each recite a device, or method, for facilitating the replacement, i.e., the exchange, of a labeling unit of a labeling machine, where the identification data of the labeling unit can be transmitted to a conveyance device, and where the identification data distinguishes the labeling unit from at least one other labeling unit. That is, each of independent

claims 1, 2, 3, and 11 has been amended herein to add that the identification data distinguishes the labeling unit from at least one other labeling unit. Neither Eder, Bright, or Hashiguchi, either alone, or in combination, disclose or suggest each and every feature of the claimed invention.

Applicant submits that the presently added limitation for each of claims 1, 2, 3 and 11 expresses the usual understanding of the term "identification." In contrast, in the Office Action, the Examiner interprets the term "identification data" to mean "any data that identifies the unit as a labeling unit, e.g information regarding the label supply" (see page 8, first two lines of the present Office Action). Such an interpretation is, however, not what is normally understood by a person having ordinary skill in the art. For instance, the *Bright* reference cited by the Examiner refers to "[a] method for labelling articles [...] for identification by visually impaired persons" (Abstract), and in paragraph [20] "a tactilely distinguishable mark [...] for identifying packages to the visually impaired by touch." It is clear that the identification in Bright means distinguishing a respective package from another one, not for making out that there is merely a package.

Applicants recognize that it might be possible to understand the term "identification" another way, as perhaps explained by the Examiner. Thus, the limitation of the presently-amended claims is provided to exclude such an interpretation (which was not intended by the applicant). Within the present specification, the combined paragraphs [0005], [0007], [0008], [0010] and [0011] suggest that the identification data is not to be understood in the manner suggested by the Examiner. Indeed, it is mentioned in these paragraphs of the present application that, by replacing a labeling unit, a different type of label may be applied in a different labeling method, and further that respective controls are switched to a desired labeling mode when a labeling unit is changed, and that due to the transmitting of the identification data, at least a portion of the required configuration can be accomplished automatically when the labeling unit is replaced. For switching controls appropriately to a desired labeling mode after a replacement of a labeling unit, the particularities of the labeling unit must be taken into account, whereas the mere fact that it is a labeling unit is not sufficient. In order for those above-noted

paragraphs to make sense, the identification data is, therefore, to be understood to include these unique particularities of the respective labeling unit. If a labeling unit is exchanged out for another labeling unit (as mentioned in the specification), and then only the mere fact that a labeling unit is provided is given, then no difference could be found by the machine to which the labeling unit is connected. That is, there is no registration or recognition of the fact that a totally different labeling unit, with totally different characteristics and capabilities, is now present. The presently-claimed invention, however, refers to exchanging of one labling unit against another labeling unit and providing identification which reflects this change. Thefore, the "identification" as used in the present claims, is meant (and now recited) to be able to differentiate between one labeling unit and another labling unit.

Moreover, in the present specification paragraph [0013], the possibility of multiple labeling units being addressed (by the conveyance device), each by a separate address, is mentioned. This logistically supports that the conveyance device, when addressing the respective labeling device, provides information distinguishing between the respective labeling units.

Finally, in the description of Figure 3 in present paragraphs [0035] – [0043], the identification data is referred to as "identity information." Here the "identity" of an item is clearly provided as a unique attribute that distinguishes one item from another item.

Turning now to the cited references, the labeling unit as disclosed by Eder (WO 03/024861 or US 2004/0099379) is adapted for a signal transmission (see [29] and claim 21 of Eder). Such signals, however, are not specified so as to be identification data that distinguishes the labeling unit from at least one other labeling unit. Therefore, at least this feature renders presently amended claims 1 - 3 of the present application distinguishable over Eder.

Similarly, the information concerning components and labeling which according to Bright is fed into a computer (see [0019], [0050], [0056] of

Bright), still does not establish or suggest that identification data distinguishes one labeling unit from another.

Rather, as both the Eder and Bright references are silent about such identification data, and there is nothing in either to suggest such use of the identification date, even a combination of both Eder and Bright cannot render this feature of Applicant's claims obvious.

Moreover, it is to be noted that Bright even fails to disclose exchangeable labeling units. The Examiner's statement (at item 4 of the Office Action) that the converse is not mentioned in Bright nevertheless does not disprove novelty or non-obviousness of the feature. This fact becomes particularly relevant regarding the Examiner's further explanations in which the Hashiguchi reference is used in the rejections. In Hashiguchi, a production management system is disclosed in which, in particular, malfunctions can be checked. To this end, a "plurality of image-taking means are set up at the various product processing apparatuses and are used for taking images of operating conditions," wherein a "network distributes the image information from the plurality of image-taking means," possibly along with other operating conditions (Hashiguchi, [0010], [0011]). In Hashiguchi paragraph [0060], also a labeler is mentioned. However, no exchangeable labeling units are disclosed or suggested by Hashiguchi.

Notwithstanding the above, the signals transmitted according to the teaching of Hashiguchi are not data, in effect, that distinguishes one labeling unit from another. As no exchangeable modules are used according to Hashiguchi, the consideration of such signal information (as purportedly distinguishing between labeling units) would not even make sense or be needed.

In the paragraph bridging pages 5 and 6 of the current Office Action, the Examiner states that the monitoring means mentioned in Hashiguchi would render a specific image of the apparatus, which is apparently considered to be some type of identification data, even in the sense as data distinguishing a labeling unit from another. It is to be noted, however, that it is in no case necessary that two

labeling units have different visual appearance. In actuality, they may “look” exactly the same, but have totally different characteristics. Therefore, an “image” of an apparatus cannot at all be assumed to identify the respective labeling unit in that sense, i.e. so as to distinguish one labeling unit from another. Moreover, according to Hashiguchi, the cameras are used to grasp production conditions and to monitor locations where abnormalities and malfunctions have occurred (see Hashiguchi at paragraph [0075]). As an example, a feeder needing adjusting and an item that has become lodged in a hopper are mentioned there. That is, it is to be assumed that the cameras are directed to positions at which the production is immediately processed, and to passing products, in order to check whether or not a production step is being carried out accurately or has been carried out correctly. Consequently, the respective processing unit is captured only marginally. In case of the labeling device, the camera would most likely be directed to the position where the label is applied, or behind at the already labeled items, and one would then check if the labels are being applied or have been applied at the right place and in the correct manner. However, one cannot assume or infer that, in this way, one labeling unit can be distinguished from another.

Therefore, even the combination of all three documents Eder, Bright and Hashiguchi does not yield or imply the feature of the identification data distinguishing the labeling unit from at least one other labeling unit, as found in presently-amended claims 1 to 3, and 11.

Importantly, identification of a labeling unit provides for the advantage that at least a portion of the required configuration of the conveyance device and the labeling unit can be accomplished automatically when the labeling unit is replaced (see paragraph [0011] of the present specification): Without any human intervention being required, the conveyance device can provide the specific information of a labeling unit even after this has been replaced, and it can then adapt the respective controls to the changed labeling unit.

Thus, none of Eder, Bright, or Hashiguchi, nor any other reference of record discloses or suggests each and every limitation recited in the present

amended claims 1-3, and 11. The remaining dependant claims, as dependant thereon, likewise are patentably distinct.

In light of the forgoing, Applicants kindly request the Examiner to reconsider and withdraw the outstanding anticipation and obviousness rejections.

CONCLUSION

Applicant believes that each of the outstanding rejections, objections, and/or concerns, have been either accommodated, reversed or rendered moot.

Therefore, the application is considered in condition for allowance. Should there be any outstanding issue that the Examiner believes may be remedied via telephone conference, please contact the undersigned at (312) 474-6300.

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Respectfully submitted,

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